

MEMO ENDORSED

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May 5, 2008

VIA OVERNIGHT MAIL

Hon. Lewis A. Kaplan
United States District Judge
United States Courthouse
500 Pearl Street, Room 910
New York, New York 10007-1581

USDS SDNY
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Re: In re: Trustees of the Local 295/851 Funds v. Empire Freight Systems
Case No. 08-525 (LAK)(FM)

Dear Judge Kaplan:

This firm represents the Board of Trustees of the Local 295/851 Employer Group Pension and Welfare Funds. Your Honor has scheduled an initial pretrial conference in this case for Friday, May 9, 2008 at 10:00 a.m. I write to respectfully request adjournment of this conference. The reason for this request is that the defendant, Empire Freight Systems, has not appeared in this action. Accordingly, plaintiffs are seeking a default judgment against the company. As you may recall, Your Honor denied plaintiffs' first motion for default judgment on March 27 as a result of plaintiffs' failure to follow local court procedure in making its request. Plaintiffs' counsel regrets this inadvertent oversight, and will be re-filing the motion in accordance with local procedures shortly. Accordingly, we seek the Court's indulgence in adjourning the initial conference.

We are very much obliged to the Court for its consideration of this matter.

Very truly yours,

Rachel S. Paster

*Conference adjourned
Unless motion filed by 5/12/08,
action will be dismissed for lack
of prosecution*

cc: LEWIS A. KAPLAN, 147-20 184th Street, Jamaica, New York 11434 (via U.S. Mail)